

United States Senate

June 12, 2007

The Honorable Kevin Martin
Chairman
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Dear Chairman Martin:

I understand that the Federal Communications Commission is considering a *Further Notice of Proposed Rulemaking* on the implementation of a nationwide, broadband interoperable public safety network in the 700 MHz band and the development of operational, technical and spectrum requirements for meeting Federal, state and local public safety communications requirements.¹ As a long standing proponent of providing spectrum in the 700 MHz band to public safety entities, I would like to submit comments to be included in the public record that reflect my own concerns on this important matter. Please ensure that this letter is handled in strict accordance with existing agency rules, regulations, and ethical guidelines.

The Federal government has made many strides in developing a comprehensive, interoperable emergency communications plan, setting equipment standards, funding the purchase of interoperable communications equipment, and belatedly making additional radio spectrum available. However, our nation's interoperability crisis will not be solved until all emergency personnel involved in responding to an incident are able to communicate seamlessly, and that is what this proceeding should accomplish. As you likely know, the 9/11 Commission's Final Report recommends the "expedited and increased assignment of radio spectrum to public safety entities." The Federal government must act to address the 9/11 Commission's clear assessment.

I have been working on this issue for many years, even before the tragic events of 9/11. Ten years ago, while serving as Chairman of the Senate Committee on Commerce, Science, and Transportation, I introduced the Law Enforcement and Public Safety Telecommunications Empowerment Act, which would have provided public safety with 24 MHz in the 700 MHz band and authorized ten percent of proceeds from an auction of spectrum to commercial companies to be used to fund State and local law enforcement communications. Although my bill did not pass, Congress has finally acted to require this spectrum be allocated to public safety on February 17, 2009 – a date that is too late in my opinion.

¹ The *Further Notice* addresses WT Docket No. 06-150, CC Docket No. 94-102, WT Docket No. 01-309, WT Docket No. 03-264, WT Docket 06-169, PS Docket 06-229 and WT Docket No. 96-86, FCC 07-72 (April 27, 2007).

During my work on this issue, I have not only been concerned about public safety not receiving spectrum in a timely manner, but also not receiving *enough* spectrum. In 2004, I offered an amendment that was included in the Intelligence Reform and Terrorism Prevention Act, which required the Federal Communications Commission and the Department of Homeland Security to study the short-term and long-term spectrum needs of public safety. As you know, in December 2005, the Commission delivered a report that did not contain a specific recommendation on the amount of spectrum necessary to aid public safety interoperability, but did state, "... emergency response providers would benefit from the development of an integrated, interoperable nationwide network capable of delivering broadband services throughout the country." The Department of Homeland Security has never provided its report to Congress. However, public safety entities are on record stating there is a need 97.5 MHz of additional spectrum to aid interoperability.

Earlier this year, I introduced S. 744, the "Spectrum Availability for Emergency-Response and Law-Enforcement to Improve Vital Emergency Services Act," otherwise known as the SAVE LIVES Act. It would require the Commission to auction spectrum in the 700 MHz under a "conditional license" to bidders that agree to share the spectrum with public safety and implement specification set forth by a "Public Safety Interoperable Communications Working Group." The Group would be comprised of representatives from the Association of Public Safety Communications Officials-International (APCO), International Association of Chiefs of Police (IACP), International Association of Fire Chiefs (IAFC), the Major Counties Sheriffs Association (MCSA), and others, including persons with experience in the commercial wireless industry. The Group would develop specifications on network build out, construction timetables, coverage areas, service levels, emergency preemption rules and other performance criteria that would be conditions that must be met by any licensee. Additionally, the Group must set forth open standards for equipment and usage that support upgrade and technology developments that would be implemented by the licensee. The bill would then require the Commission to audit the licensee's performance in meeting these specifications every three years and revoke the license if the conditions are not being met.

I am pleased to see that the Commission's *Further Notice of Proposed Rulemaking* requests comments on whether to establish a national public safety licensee to manage a 10 MHz "E Block" in the upper portion of the 700 MHz commercial services band for a nationwide, interoperable broadband network, which is similar to what is envisioned in the SAVE LIVES Act. This proposal deserves serious consideration from the Commission. Such a network, if constructed and maintained consistent with public safety standards where all agencies have secure access and commercial interests are afforded a viable investment and participation opportunity, would be an excellent use of the public's spectrum and an outstanding example of a public-private partnership. Additionally, if this proposal or a similar proposal is implemented, the Commission should ensure that the auction participants agree, *prior* to the auction, to public safety's specifications for the network.

I hope the Commission will review the objectives laid out in the SAVE LIVES Act in your effort to draft a solution to our nation's interoperability crisis. We cannot protect the American public without reforming our nation's interoperable communications networks. Spectrum in the 700 MHz band is slated to be auctioned by January 2008, so if the Federal

government does not act now to ensure that public safety has access to this valuable spectrum, this opportunity will be lost *forever*. At the same time, this auction should not be delayed past the January 28, 2008, statutory deadline because any such holdup would only delay the transfer of 24 MHz of spectrum to public safety that is so urgently needed.

Lastly, I hope that in preparing the rules for the auction that the Commission will consider a mix of license sizes to facilitate the further deployment of wireless broadband and ensure taxpayers are adequately compensated for the use of this public asset. Market-driven auction policies, and not encumbering rules, would ensure that spectrum does not lay fallow due to extensive litigation or for other reasons, and that consumers will not be denied the benefits from wireless technology innovations.

Thank you for your work on behalf of our nation's first responders and American taxpayers. I appreciate your consideration of my views on this matter. I note that this letter reflects my own concerns on this important public policy. Please ensure that this correspondence is handled in strict accordance with existing agency rules, regulations, and ethical guidelines. Let me reiterate that I am not advocating a specific result in this matter, and I trust that whatever decision or course of action you may take will be made in the best interests of the country.

Sincerely,



John McCain